



DEPARTMENT OF LABOR

Employment and Training Administration

TA-W-85,355

Chevron Mining, Inc.

A Subsidiary Of Chevron Corporation

Including On-Site Leased Workers From STU Blattner, Inc. (SBI)
Questa, New Mexico;

Notice of Negative Determination
Regarding Application for Reconsideration

By application dated August 11, 2014, the State of New Mexico requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance, applicable to workers and former workers of Chevron Mining, Inc., Questa, New Mexico (Questa Mine). The determination was issued on July 30, 2014. The Department's Notice of determination was published in the Federal Register on August 18, 2014 (79 FR 48775).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

- (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a mis-interpretation of facts or of the law justified reconsideration of the decision.

The negative determination of the Trade Adjustment Assistance (TAA) petition filed on behalf of workers at Questa Mine was based on the findings that the subject firm does not produce an article within the meaning of Section 222(a) or Section 222(b) of the Trade Act of 1974, as amended (the Act).

During the investigation, the Department obtained information that Questa Mine no longer produced molybdenum disulfide and that the workers at Questa Mine were engaged in employment related to the supply of mine development services (such as block caving) and administrative services.

The request for reconsideration states that Chevron Mining, Inc. had been exploring for new mining veins but decided not to reenter the molybdenum market due to the impact of the global market, which resulted in worker separations at Questa Mine. The request cites TAA certifications TA-W-40,739 and TA-W-35,278 as examples of foreign trade impact on Questa Mine, and asserts that foreign trade continues to affect workers at Questa Mine. The request also asserts that workers at Questa Mine are eligible to apply for TAA as secondarily-affected workers, under Section 222(b), 19 U.S.C. 2272(b) or Section 222(c), 19 U.S.C. § 2272(c) of the Act.

During the investigation, the Department received information that revealed that while Questa Mine did produce molybdenum disulfide prior to June 2013, Chevron Mining, Inc. did not reenter the molybdenum market and, consequently, there was no production during the relevant period.

In *Former Employees of Mortgage Guaranty Insurance Corporation (MGIC) v. United States Secretary of Labor* (Court No. 07-00182), the Department stated the policy requiring that the firm employing the subject workers produce an article domestically; that workers providing services incidental to the provision of a services are not engaged in the production of an article for the purposes of the Act; and that the services provided by a workers' firm would not be considered articles, whether tangible or intangible.

The petitioner did not supply facts not previously considered; nor provide additional documentation indicating that there was either 1) a mistake in the determination of facts not previously considered or 2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination. Based on these findings, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After careful review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, D.C., this 4th day of September, 2014.

Del Min Amy Chen,
Certifying Officer, Office of
Trade Adjustment Assistance.
4510-FN-P

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